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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/490,867	01/24/2000	Sam E. Kinney JR.	ARIBP050	7744
21912 7590 02/21/2008 VAN PELT, YI & JAMES LLP 10050 N. FOOTHILL BLVD #200 CUPERTINO, CA 95014				
EXAMINER				
GREIMEL, JOCELYN				
ART UNIT		PAPER NUMBER		
3693				
MAIL DATE		DELIVERY MODE		
02/21/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/490,867

Applicant(s)

KINNEY, SAM E.

Examiner

JOCELYN GREIMEL

Art Unit

3693

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 December 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 and 16-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10, 16-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/02)
- Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 04 June 2007 has been entered.

Status of Claims

Claims 1-10 and 16-20 are currently pending. Claims 1-10 and 16-20 were elected for prosecution on 27 December 2007. Claims 1, 6 and 16 are independent claims.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

- 1. Claims 1-10 and 16-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Johnson et al. (WO 98/38844, hereinafter Johnson, as**

provided by Applicant in Prior Art). In reference to claims 1, 6 and 16, Johnson discloses a method, system and apparatus for a Dutch auction between a plurality of potential bidders, comprising:

- a. generating a sequence of price values for a comparative bid parameter that is used by an originator of the auction, said sequence of price values being used to create a first view of the Dutch auction for the originator of the auction (page 16+);
- b. selecting a price value in said sequence of price values; for at least a first potential bidder, transforming, using a characteristic of an auction item of a first type, said selected price value into a first bidder comparative bid parameter value that is used to create a second view of the Dutch auction for said first potential bidder, wherein said second view is associated with the auction item of the first type (page 16; page 28; page 31; figures 3-4);
- c. for at least a second potential bidder, transforming, using a characteristic of the auction item of a second type, said selected price value into a second bidder comparative bid parameter value that is used to create a third view of the Dutch auction for said second potential bidder, wherein said third view is associated with the auction item of the second type that is different from said first type wherein the characteristic of the auction item of the first type is associated with the quality of the item of the first type (page 16; page 28; page 31; figures 3-4).

2. In reference to claims 2-5, 7-10 and 17-20, Johnson discloses a method, system and apparatus for a Dutch auction between a plurality of potential bidders, comprising:
 - a. wherein generating a sequence of price values comprises predefining a series of price increments or decrements (page 15-16);
 - b. wherein generating a sequence of price values further comprises changing said predefined series of price increments or decrements in real-time during the Dutch auction (at least page 15);
 - c. wherein transforming, using a characteristic of an auction item of a first type comprises performing one of a linear transformation, non-linear transformation, and lookup table transformation (page 16+);
 - d. wherein transforming, using a characteristic of an auction item of a first type comprises performing a combination of linear, non-linear, and lookup table transformations simultaneously (page 16+).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOCELYN GREIMEL whose telephone number is (571)272-3734. The examiner can normally be reached on Monday - Friday 8:30 AM - 4:30 PM EST.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Kramer can be reached on (571) 272-6783. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/James A. Kramer/
Supervisory Patent Examiner, Art Unit 3693

Jocelyn Greimel
Examiner, Art Unit 3693
February 11, 2008

Application Number**Application/Control No.**

09/490,867

**Applicant(s)/Patent under
Reexamination**

KINNEY, SAM E.

Examiner

JOCELYN GREIMEL

Art Unit

3693